

REMARKS

Claims 10-15, 32-37, 53-56, 77-79 and 86-88 remain pending in the instant application. All claims presently stand rejected. Applicants amend claims 10, 32, 53, 77 and 86. Applicants submit additional claims 89-93 for consideration. Applicants assert that no new matter is added herein as amendment to claims 10, 53 and 86 and additional claims 89-90 and 92-93 are supported at least at page 24, line 8 through page 25 line 5 and Fig. 1C; amendment to claim 32 and additional claim 91 are supported at least at page 25 lines 6-20 and Fig. 5D; and amendment to claim 77 is supported at least at page 25 line 21 through page 6 line 16 and Fig. 5E of the application as originally filed. Applicants respectfully request reconsideration of claims 10-15, 32-37, 53-56, 77-79 and 86-88, and consideration of additional claims 89-93 in view of at least the following remarks.

I. Claims Rejected Under 35 U.S.C. § 102

Claims 10, 12-13, 32, 34-35, 77 and 79 stand rejected under 35 U.S.C. § 102(e) as being anticipated by US Patent 6,177,931 to Alexander et al. (Alexander). It is axiomatic that to be anticipated, every limitation of a claim must be disclosed in a single reference.

Independent Claim 10

Amended independent claim 10 now recites, in pertinent part

sending demand data feedback from the client to the server
after a predetermined amount of pieces of content has been utilized
since the last time demand data feedback was sent to the server and
the demand data related to the utilized pieces of content has been
generated for a predetermined threshold count of a plurality of
pieces of content rated.

Applicant respectfully submits that the combination of the prior art cited by the Examiner fails to disclose sending demand data feedback from the client to the server **after demand data has been generated for a predetermined threshold count of a plurality of pieces of content rated**.

The Examiner cites Alexander as disclosing sending demand data feedback from the client to the server after a predetermined amount of pieces of content has been utilized since Alexander describes sending the viewer profile information to the headend after a predetermined time interval (see column 29 lines 14-27). Therefore, the Examiner concludes that Alexander

discloses sending demand data feedback after a predetermined amount of pieces of content as that will be the content utilized during a predetermined time interval. However, this conclusion is improper because Alexander does not disclose, teach or enable a relationship between the time interval and the number of pieces of content used, consumed, unconsumed or rated.

For example, although various numbers of pieces of content may be used, consumed, unconsumed or rated, Alexander does not teach or enable counting or otherwise determining a number of pieces used, consumed, unconsumed or rated during a predetermined time interval. Similarly, neither does Alexander teach comparing a count of such numbers with a threshold for such numbers for sending demand data feedback from the client to the server. Consequently or independently of the examples above, Alexander does not disclose, teach or enable sending demand data feedback after a threshold count of pieces of content used, consumed, unconsumed or rated.

On the other hand, claim 10 requires sending demand feedback data after the demand data related to utilized pieces of content has been generated for a threshold count of a plurality of pieces of content rated.

Consequently, the Patent Office has not identified and Applicants are unable to find any teaching or suggestion of the above noted limitation of claim 10 in Alexander. Hence, Applicants respectfully request the Patent Office withdraw the rejection above for independent claim 10.

Next, Applicants respectfully disagree with the rejection above for claim 32 for at least the reason that the cited references do not disclose sending demand data feedback to the server **after a predetermined threshold count of a plurality of pieces of content has been consumed** since the last time demand feedback data was sent to the server, as required by amended claim 32. An argument analogous to the one above for claim 10 applies here as well. Specifically, Alexander is cited as disclosing sending demand data feedback from the client to the server after a predetermined time interval. However, Alexander does not disclose, teach or enable sending demand data feedback to the server after a predetermined threshold count of a plurality of pieces of content that has been consumed, as required by amended claim 32. Hence, for at least this reason, Applicants respectfully request the Patent Office withdraw the rejection above for claim 32.

Applicants respectfully disagree with the rejection above for claim 77 for at least the reason that the cited references do not disclose sending demand data feedback to the server **after a predetermined threshold count of a plurality of pieces of stored content has been unconsumed** since the last time demand feedback data was sent to the server, as required by amended claim 77. An argument analogous to the one above for claim 10 applies here as well. Specifically, Alexander is cited as disclosing sending demand data feedback from the client to the server after a predetermined time interval. However, Alexander does not disclose, teach or enable sending demand data feedback to the server after a predetermined threshold count of a plurality of pieces of stored content that has been unconsumed, as required by amended claim 77. Hence, for at least this reason, Applicants respectfully request the Patent Office withdraw the rejection above for claim 77.

Next, Applicants disagree with the rejection of claim 86 for at least the reason that the cited references do not disclose sending demand data after the demand data related to a predetermined amount of pieces of content is generated for a predetermined threshold count of a plurality of pieces of content rated, as required by claim 86. An argument analogous to the one above for claim 10 applies here as well. Hence, Applicants respectfully request the Patent Office withdraw the rejection above for claim 86.

Dependent Claims

The dependent claims are non-obvious over the prior art of record for at least the same reasons as discussed above in connection with their respective independent claims, in addition to adding further limitations of their own. Accordingly, Applicant respectfully requests that the instant § 102 rejections of the dependent claims be withdrawn.

II. Claims Rejected Under 35 U.S.C. § 103(a)

Claims 11, 33, and 78 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Alexander in view of US Patent 6,990,676 to Proehl et al. (Proehl). Claims 14-15, 36-37, 53, 55-56 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Alexander in view of US Patent 5,758,257 to Herz et al. (Herz). Claim 54 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Alexander in view of Herz and in further view of Proehl.

“To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. All words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03.

Independent Claim 53

Amended independent claim 53 now recites in pertinent part

A storage device...to: send demand data feedback to the server after a pertinent amount of the pieces of content has been utilized since the last timed demand data feedback was sent to the server and the demand data related to the utilized pieces of content has been generated **for a count of the number of pieces of content ranked or rated that exceeds a predetermined threshold number.**

Applicants respectfully submit its combination of the prior art cited by the Examiner fails to disclose the above noted limitation of claim 53.

An argument analogous to the one above for claim 10 and Alexander applies here as well. Specifically, Alexander discloses sending demand data from the client to the server after a predetermined time interval. However, Alexander does not disclose, teach or enable sending demand data feedback after the demand data has been generated for a count of the number of pieces of content ranked or rated that exceeds a predetermined threshold number, as required by amended claim 53. Hence, for at least those reasons, Applicants submit that Alexander does not teach or suggest the above noted limitation of claim 53.

Herz fails to cure the shortcoming of Alexander. Herz discloses a viewer profile collection system (see Figure 1). However, the Patent Office has not identified and Applicants are unable to find any teaching or suggestion in Herz of the above noted limitations of claim 53.

Hence, as neither Alexander nor Herz teaches or suggests the above noted limitations of claim 53, Applicants respectfully request the Patent Office withdraw the rejection above of claim 53.

Dependent Claims

The dependent claims are non-obvious over the prior art of record for at least the same reasons as discussed above in connection with their respective independent claims, in addition to adding further limitations of their own. Accordingly, Applicant respectfully requests that the instant § 103 rejections of the dependent claims be withdrawn.

CONCLUSION

In view of the foregoing, it is believed that all claims now are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666.

Respectfully submitted,

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Dated: March 19, 2007



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 3/19/07

Amber D. Saunders Date